

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**TYLER DIVISION**

**DATE:** June 14, 2011

**JUDGE**  
LEONARD DAVIS

**REPORTER:** Shea Sloan & Judy Werlinger

**LAW CLERK:** Andrea Houston

<b>CLEAR WITH COMPUTERS</b>  <b>V</b>  <b>HYUNDAI MOTOR AMERICA, INC.</b>	<b>CIVIL ACTION NO:</b> <b>6:09-CV-479</b>  <b>JURY TRIAL - DAY 1</b>
<b>ATTORNEYS FOR PLAINTIFFS</b>	<b>ATTORNEY FOR DEFENDANT</b>
<b>SEE SIGN-IN SHEETS</b>	

On this day, came the parties by their attorneys and the following proceedings were had:

**OPEN:** 8:55 am

**ADJOURN:** 5:00 pm

<b>TIME:</b>	<b>MINUTES:</b>
8:55 am	Trial resumed. <b>Jury not present in the courtroom.</b>
	Court addressed the parties on the Court's opinion clarifying the MSJ on divided infringement. Copies of order tendered to the parties.
	Court verified that the Defendant wishes to invoke the Rule and will do so at the appropriate time. Court addressed the parties regarding submission of exhibits. Mr. McSwane responded and outlined the parties' agreement with regard to not disclosing exhibits to be used on cross.
	Mr. Wang addressed the Court on the Court's Exhibit Order (Doc #322) and understands that each party is to make a general offer en masse and what defendant understands the order to mean. Court admonished parties on reading of the orders.
	Court asked for the Jury to be brought in. Jury seated in the courtroom. Court welcomed jury back.
	Court asked witnesses to stand and state their names. <b>Audrey Spangenberg, Tom Rhyne, William Tancill, Melvin Ray Mercer, Ray Perryman, Jerry Johnson</b> stood, stated their name and were sworn by the Clerk.

**DAVID J. MALAND, CLERK**


**FILED: 6.14.2011**

BY: *Rosa L. Ferguson*, Courtroom Deputy


## PAGE 2 - Proceedings Continued

TIME:	MINUTES:
	Court advised witnesses that the Rule has been invoked and explained the Rule. Another witness stood. <b>Barbara Frederiksen-Cross</b> stood, stated name and was sworn by the Clerk.. Court explained the Rule.
	Mr. Wang offered exhibits on "Plaintiff's Exhibits Offered on Tuesday, June 14, 2011," marked as Plaintiff's Exhibit List 1, and without objection, exhibits admitted. Plaintiff's Exhibit List 1 lists <b>Plaintiff's Exhibits 1, 3-7, 10, 12, 13, 27, 29, 60 - 64, 122, 124, 125, 144 - 148, 153 &amp; 160.</b>
	Mr. McSwane advised that they had no exhibits to offer at this time.
	Mr. Fenster called <b>JERRY JOHNSON</b> to the witness stand. Witness previously sworn.
	Direct examination of Mr. Johnson by Mr. Fenster.
	Mr. Fenster passed the witness. Cross examination of Mr. Johnson by Mr. McCabe. Mr. Fenster asked to approach bench.. (Bench Conference held). Cross examination of witness continued.
	Mr. McCabe passed the witness. Redirect examination of witness.
	Mr. Fenster passed the witness. Recross examination of witness.
	Mr. McCabe passed the witness. No further questions of this witness.
	Mr. Fenster asked that the witness be excused. Mr. McCabe asked that the witness remain subject to being called. Mr. Fenster responded as to disclosure on witnesses. Mr. McCabe asked to approach bench. (Bench Conference held). Court asked witness to remain and hopefully will be through by lunch.
	Mr. Fenster called <b>AUDREY SPANGENBERG</b> to the witness stand. Witness previously sworn.
	Direct examination of Ms. Spangenberg by Mr. Fenster.
10:45 am	Court recessed Jury until 11:00 a.m.
	Court inquired as to Mr. Johnson's testimony. Parties conferred.
10:48 am	Court in recess for 5 minutes.
	Trial resumed. Jury not present in the courtroom.
	<b>TESTIMONY OUTSIDE THE PRESENCE OF THE JURY (Inequitable Conduct):</b>
	Mr. Charkow called <b>JERRY JOHNSON</b> to the witness stand. (Witness previously sworn).
	Cross examination of Mr. Johnson by Mr. Charkow.
	Mr. Charkow passed the witness. Direct examination of witness by Mr. Wang.
	Mr. Wang passed the witness. Recross examination by Mr. Charkow.
	Mr. Charkow passed the witness. Witness finally excused.

## PAGE 3 - Proceedings Continued

TIME:	MINUTES:
	Court addressed the parties on the Court's exhibit order (Doc #322) and explained the order. Court urged parties to meet and confer and offer their exhibits accordingly.
	Court asked for the Jury to be brought in. <b>Jury seated in the courtroom.</b>
	<b>AUDREY SPANGENBERG</b> on witness stand. Direct examination of witness by Mr. Fenster continued.
	(Note: Document Camera in courtroom having technical difficulties – arm on camera raising and lowering on its own). Patent Ghosts!
	Mr. Fenster passed the witness. Cross examination of witness by Mr. McSwane.
	Mr. Fenster asked to approach bench. (Bench Conference held) Cross examination of witness continued. Mr. Fenster asked to approach bench. (Bench Conference held) Cross examination of witness continued.
	Mr. McSwane passed the witness. Redirect examination of witness by Mr. Fenster.
	Mr. Fenster passed the witness. Recross examination of witness by Mr. McSwane.
	Mr. McSwane passed the witness. No further questions of this witness.
	Mr. Fenster called <b>ERICH SPANGENBERG</b> to the witness stand. Witness sworn by the clerk.
	Direct examination of Mr Spangenberg by Mr. Fenster.
12:17 pm	Court in recess until 1:00 pm.
1:10 pm	Trial resumed. <b>Jury seated in the courtroom.</b>
	<b>ERICH SPANGENBERG</b> on witness stand. Direct examination of witness continued. Court asked counsel to approach the bench. (Bench Conference held). Direct examination of witness continued. Court asked counsel to approach the bench. (Bench Conference held). Direct examination of witness continued. Mr. Fenster asked to approach the bench. (Bench Conference held). Direct examination of witness continued.
	Mr. Fenster passed the witness. Cross examination of Mr. Spangenberg by Mr. McCabe.
	Mr. McCabe passed the witness. Redirect examination of witness by Mr. Fenster.
	Mr. Fenster passed the witness. Recross examination of Mr. Spangenberg by Mr. McCabe.
	Mr. McCabe passed the witness. Redirect examination of witness by Mr. Fenster.
	Mr. Fenster passed the witness. No further questions of this witness. Court inquired if witness could be excused. Court asked counsel to approach bench. (Bench Conference held).
	Court asked counsel
	Mr. Giza called <b>Dr. VERNON THOMAS RHYNE</b> to the witness stand. Witness previously sworn.
	Mr. McSwane asked to approach bench. (Bench Conference held).

## PAGE 4 - Proceedings Continued

TIME:	MINUTES:
	Direct examination of Dr. Rhyne by Mr. Giza.
3:15 pm	Court in recess until 3:30 pm.
3:35 pm	Trial resumed. <b>Jury seated in the courtroom.</b>
	<b>Dr. THOMAS RHYNE</b> on the witness stand. Direct examination continued.
	Mr. McCabe objects to exhibit being tendered to Jury. (Court asked counsel to tender exhibit at the bench. Bench Conference held).  Mr. Giza addressed the Court on the use of the ELMO. Court indicated ELMO had died. Death of ELMO.
	Mr. Giza passed the witness. Cross examination of Dr. Rhyne by Mr. McCabe. (Court asked counsel to approach bench. Bench Conference held). Cross examination of witness continued.
	Mr. McCabe passed the witness. Redirect examination of Dr. Rhyne by Mr. Giza.
	Mr. Giza passed the witness. Recross examination of witness by Mr. McCabe.
	Mr. McCabe passed the witness. No further questions of this witness.
	Court addressed the Jury and thanked them. Court excused them until 9:00 a.m. tomorrow morning. Court reminded Jury of its instructions.
	<b>Jury not present in the courtroom.</b> Court addressed the parties and Plaintiff has used 4 hours and 17 minutes and Defendant has used 2 hours and 6 minutes.
	Mr. Kabat addressed the Court on Dft's Motion for Leave to File <i>Daubert</i> Motion that was filed today. Mr. Moss addressed the Court and presented Motion.
	<b>Court denied Motion for Leave to File <i>Daubert</i>.</b>
	Mr. Wang addressed the Court on PX 153 and moved to withdraw. <b>Court allowed PX 153 to be withdrawn.</b> Mr. McSwane addressed the Court on an amended list. Court reminded parties of its procedure on exhibits.
5:00 pm	There being nothing further, Court adjourned for the day.